Commission canadienne des droits de la personne | Canadian human rights commission

2014

ISSUES ▪ OUTCOMES ▪ ENGAGEMENT

ANNUAL REPORT TO PARLIAMENT

Canada

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Chief Commissioner's Message

Thank you for taking the time to read our Annual Report to Parliament for 2014.

Within this report you will find: statistics on the complaints that came to the Canadian Human Rights Commission (CHRC) this year; information on employment equity audits conducted by the CHRC; examples of how we promoted inclusive workplaces; and discussions of critical human rights issues facing Canada today.

Promoting and protecting the rights of the most vulnerable members of society are priorities for the CHRC.

And while it is true that concepts of fairness, diversity, equality and inclusion are deeply ingrained in our society, it is also true that many people in Canada still do not have equal opportunity to fully develop their potential, because of discrimination.

Too many people experience discrimination based on things like disability, race or gender. People are denied job opportunities because of where they or their parents came from. They are harassed in the workplace because of gender or sexual orientation. Disability results in some people being treated not as equals, but as lesser humans.

By far the starkest example of social inequality in Canada today is the reality of Aboriginal people, particularly women and children.

Yet I believe we are reaching a turning point. I am optimistic that change is occurring. Our collective understanding of the rights of children, and the imperative of keeping all children safe, is galvanizing Canada's conscience.

As an example, the high profile of what has been dubbed the "child welfare case" reflects recognition that the status quo in Aboriginal relations is unsustainable. In 2014, after many years of procedural delays and court challenges, the Canadian Human Rights Tribunal concluded hearings in the case. A ruling is expected in 2015.

The complainants allege that the system is failing Aboriginal children and families when they need it most. At issue is whether the federal government's child welfare programs in First Nations communities are inadequate and discriminatory.

At stake is whether at-risk children in First Nations communities get a fair chance of growing up with the love and support of their families. Whether they get a chance to stay safe, and off the streets.

As another example, this past year Canada seemed to wake up to the urgency of the need to do something to halt violence against Aboriginal women and girls. The CHRC took a strong public position, adding its voice to the call for national action to address the issue.

Understanding can be a key to resolution and healing. Violence is symptomatic of myriad other problems. There is no simple solution. It will take a concerted approach by all levels of government, including First Nations. It will take time. And it will take acceptance that our deeds and beliefs are often inconsistent when it comes to the record of how governments treat Aboriginal people in this country.

The work of the Truth and Reconciliation Commission (TRC) is another example of how understanding is key to healing. The TRC has brought voices and images of a shameful chapter in our collective history out into the open. Thousands of survivors of the residential schools have had an opportunity to tell their stories and share the pain of what they experienced.

This year, I had the privilege of being an honourary witness at the TRC's final national event. I heard first-hand how Aboriginal families were torn apart. How children suffered physical and sexual abuse at the hands of those into whose care they had been entrusted. And how the legacy of abuse continues to bruise children and grand-children, years after the final residential school was closed.

These are harrowing stories that illuminate the complex issues of marginalization, poverty, racism and exclusion imposed on Aboriginal people in Canada for generations.

During that final TRC event, I committed to making reconciliation a priority for the CHRC. I promised to work with our provincial and territorial counterparts to ensure that the next generation of Canadians learns the truth about our history of colonization and the tragic legacy of Canada's residential schools.

I believe it's an important step. As TRC Commissioner Wilton Littlechild has said many times, "Education got us into this mess. Education will get us out of it."

David Langtry
Acting Chief Commissioner
Canadian Human Rights Commission

ISSUES

Landmark decision could affect on-reserve programs

In 2014, the Canadian Human Rights Tribunal concluded hearings in a landmark human rights case that could have important long-term consequences on federal government funding for on-reserve programs and services including healthcare and education.

The complaint, filed by the First Nations Child and Family Caring Society of Canada and the Assembly of First Nations, alleges that Ottawa under-funds child welfare services on reserves, depriving vulnerable and disadvantaged First Nations children of core benefits that are readily accessible in off reserve communities.

This case is significant as it touches on many themes in contemporary debate regarding sub-standard conditions of life for Aboriginal people living on reserves, including violence, neglect, alienation and chronic conditions of disadvantage.

The Canadian Human Rights Commission (CHRC) believes that regardless of how the Tribunal rules, this case will break new legal ground and has the potential to have direct impact on hundreds of thousands of First Nations people who receive all kinds of services from the federal government. The CHRC is a party in the complaint.

Sarah Pentney, Counsel for CHRC, and Philippe Dufresne, Senior General Counsel and Director General of the CHRC Protection Branch, delivering final arguments in October 2014. Photo: Courtesy of APTN National News.

The complaint, first filed in 2007, has faced numerous legal challenges and lengthy delays. The CHRC sent it to the Canadian Human Rights Tribunal for adjudication, but the Tribunal dismissed it in 2011, accepting the Government of Canada's argument that federal and provincial funding levels cannot be compared. The Federal Court overturned this, and in 2013, the complaint went to a full hearing. More than 25 witnesses testified and some 500 documents were tabled.

The complaint centres on the allegation that Ottawa's programs for child welfare services on reserves are not equitable.

The CHRC has argued that the lack of funding for basic needs and for support services such as addiction counseling, and parenting and special needs programs has made it more difficult for Aboriginal children to stay with their own families. This has had the perverse effect of driving a disproportionate number of Aboriginal children into foster care.

According to Statistics Canada, almost half (48.1 per cent) of all children in foster care are Aboriginal children, yet Aboriginal children represent only 7 per cent of all children in Canada.

The CHRC maintains that the complaint should be upheld because it is a clear case of discrimination against one of the country's most disadvantaged groups: Aboriginal children.

The Government of Canada argues that providing funding is not a federal "service" as defined by the *Canadian Human Rights Act*, and that discrimination has not been established. It says the complaint should be dismissed.

Many Aboriginal families already struggle with the legacy of federally-funded residential schools, which robbed them of their culture, history and traditions over a period of decades. These schools aimed to "kill the Indian in the child," and students were frequently mentally, emotionally and physically abused. They were also robbed of positive parenting role models, a pattern which has caused deep, intergenerational trauma.

Many Aboriginal families also face other challenges associated with living in remote or Northern communities, including poverty, inadequate housing, and substance abuse.

Over the last 15 years, several reports have concluded that funding for First Nations social services is inequitable. Among them:

- A 2008 Auditor General report found the on-reserve funding formula did not take into account the disproportionate rate at which First Nations children on reserves are taken into care.
- A 2011 Auditor General report concluded that the delivery of services to First Nations was limited due to structural impediments in the funding system.

Many Aboriginal, policy and legal experts are watching this case, knowing that the outcome will determine the extent to which Aboriginal people living on reserves can use the *Canadian Human Rights Act* as a tool to affect tangible change in their communities.

A decision in this case is expected sometime in 2015.

Time for action on missing and murdered Aboriginal women

The murder of a 15-year-old Aboriginal girl in Winnipeg this past summer, and the assault and near drowning of another Aboriginal teen in the same city only a few months later shocked the nation and catapulted the issue of violence against vulnerable Aboriginal women and girls into the spotlight as never before. (Read the CHRC statement on the death of Tina Fontaine.)

Although the federal government has stood firm in resisting calls for a national public inquiry, it tabled a multi-pronged action plan and began preparing the way for roundtable discussions with Aboriginal leaders as well as representatives of various levels of government, ostensibly with the purpose of discussing an integrated approach to the problem.

Meanwhile, as public debate and grieving over Aboriginal victims of violence boiled over, allegations of sexual harassment on Parliament Hill, and the formal laying of charges by Toronto police against a once popular CBC Radio host accused of sex crimes, encouraged scores of women to shake off stigma and fear and come forward with their own previously unreported stories.

While some media commentators decried what they called a "moral panic," 2014 was surely a year in which it became clear that violence against women is endemic, not just in remote, impoverished regions of the planet, but right here, in one of the most prosperous and advanced nations on earth.

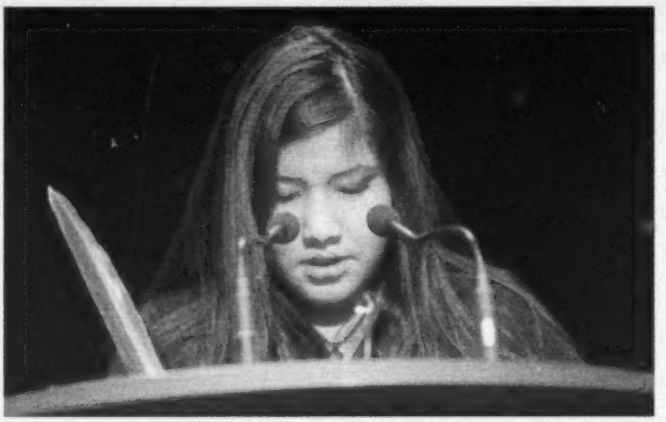
Sisters in Spirit

The Native Women's Association of Canada (NWAC) has campaigned tirelessly to raise awareness about murdered and missing Aboriginal women and girls. In 2005, they launched "Sisters in Spirit," a research, education and policy initiative driven and led by Aboriginal women. This initiative was first to document the extent of the problem.

NWAC has also spearheaded the call for a national inquiry, and In February 2014 tabled a petition with 23,000 names in support. The Canadian Association of Statutory Human Rights Agencies (CASHRA) and provincial and territorial premiers also declared their support.

The victimization of Aboriginal women and girls is particularly troubling. An Aboriginal female is three times more likely to be a victim of violence than a non-Aboriginal female. Each new instance feeds a chronic cycle of violence, substance abuse, poverty, and marginalization.

More troubling still is the fact that, according to RCMP data, an Aboriginal female is more likely to be murdered by someone she knows. Researchers commonly cite high rates of domestic violence as part of the toxic legacy of the residential school system which scarred the lives of over 150,000 Aboriginal children over the course of more than a century.



Rinelle Harper calls for a national inquiry into missing and murdered Aboriginal women while speaking during the Assembly of First Nations gathering on December 9, 2014. One month earlier, the 16 year-old was attacked and left for dead near Winnipeg's Assiniboine River. Photo: Ken Gigliotti, *Winnipeg Free Press*.

Many of the non-Aboriginal women who came forward in 2014 to speak about sexual harassment and assault they had suffered and had previously kept secret spoke of fear of not being taken seriously by police or others in authority as an impediment. The families of missing and murdered Aboriginal women and girls in many parts of Canada have also complained that police are slow to act. The numbers of missing and murdered Aboriginal women and girls speak volumes about the inaction of authorities, whether in prosecuting crimes or, more importantly, putting in place measures to prevent them from occurring.

Take the case of Tina Fontaine, the 15-year-old girl who was murdered in Winnipeg in August. It is now known that Fontaine was in contact with several different authorities in the days leading up to her murder—police officers, paramedics, hospital staff and a worker from Child and Family Services.

Tina Fontaine's story suggests that procedures to identify and protect vulnerable at-risk Aboriginal girls may be insufficient. Winnipeg police have pledged to change, and have made protection of Aboriginal women a priority. The election of the city's first Aboriginal mayor may add some urgency to these commitments.

Edna Bignell, speaking to media outside the courthouse where Dougles Hales was found guilty of the second-degree murder of Ms. Bignell's niece, Danielle Bosse. Photo: Radio-Canada.

Meantime, in Saskatoon this past December, a man was convicted of the murder of another young Aboriginal woman ten years earlier. Family members were harshly critical of Saskatoon police for paying insufficient attention to Daleen Bosse's disappearance.

"She was full of life," her grieving aunt (shown here) told reporters outside the courthouse. "But she was an Indian woman. Somebody who didn't count."

Saskatoon's police chief, appointed two years after Bosse's disappearance, told the CBC he would never let a case like this happen on his watch. Chief Weighill said he has introduced a system that immediately records and prioritizes the 1,600 cases of persons reported missing every year. Saskatoon Police have also established an Aboriginal resource officer program to support Aboriginal victims of crime and traumatic events. However, Chief Weighill said he does not support a national inquiry.

But clearly Canada as a country needs to get to the root causes of so much suffering, whatever the means, whatever the route taken. As Acting Chief Commissioner David Langtry said in his August 19 statement, "This is not acceptable in a country like Canada."

Following the death of Tina Fontaine, women across Canada took to social media to raise awareness of sexual violence against Aboriginal women and girls. Image: Canadian Human Rights Commission (with images courtesy of Twitter.)

Barriers to human rights justice

Human rights law is meant to protect everyone in Canada from discrimination, but can everyone access these protections? This question is of particular concern in relation to Aboriginal people.

Through roundtable discussions with Aboriginal women and groups that represent or serve them, and through feedback from complainants themselves, the CHRC has learned that accessing the human rights complaint process can sometimes be difficult.

Poverty, lack of technology and geographical remoteness are all significant barriers to human rights justice. Photo: CTV News Winnipeg.

To begin with, many Aboriginal people remain unaware of the protections guaranteed by the *Canadian Human Rights Act*, the procedures for filing a complaint, or the remedies that might be available.

The perceived lengthiness and complexity of the CHRC's processes may discourage people from initiating a discrimination complaint. Furthermore, many Aboriginal people report a lack of trust in government and in the justice system or say they fear retaliation from people in positions of authority. Many end up abandoning their complaint after it has been filed.

Poverty, low literacy, limited access to technology, and the remoteness and isolation of some communities are also barriers.

The CHRC outlined these findings in its 2014 *Special Report to Parliament on the Impacts of Bill C-21 (An Act to Amend the Canadian Human Rights Act.)*

> The CHRC has committed to making its complaint process more accessible to people and easier to understand. A plain language approach and a greater emphasis on personal communication with complainants are examples of these efforts. The CHRC is also creating a series of educational videos to help people understand its role and what people can do when they feel they have experienced discrimination. The videos will be distributed in 2015.

Working to advance reconciliation

In 2014, the Truth and Reconciliation Commission (TRC) held its final national event in Edmonton. Acting Chief Commissioner David Langtry was invited to attend and join the ranks of distinguished Canadian leaders and ordinary Canadians who have agreed to serve as Honourary Witnesses.

From left to right: TRC Commissioner Marie Wilson; David Langtry; and TRC Commissioner Wilton Littlechild at the final TRC National Event. Photo: Truth and Reconciliation Commission of Canada

Thousands of survivors of the residential schools gathered in Edmonton to tell their stories to the world. Volunteers handed out tissues to people overcome with emotion, then collected the tissues and burned them in a ceremonial fire.

Honourary Witnesses pledged to do all they can to advance healing and reconciliation and to ensure the memory of what happened is never erased. Alberta pledged to make the teaching of the history of residential schools a mandatory component of school curricula, and the Canadian Association of Statutory Human Rights Agencies (CASHRA), of which Acting Chief Commissioner Langtry currently serves as President, vowed to work to encourage educational authorities across Canada to do the same.

CASHRA also passed a motion supporting similar redress for survivors of residential and day schools who were excluded from the Indian Residential Schools Settlement Agreement due to technicalities.

In the week of the TRC national event, Mr. Langtry penned a number of editorial columns that appeared in newspapers across Canada in an effort to further raise awareness of the significance of the work of the TRC and the legacy of the residential school system.

For an account of the Truth and Reconciliation's final event in Edmonton, along with video, visit the TRC website.

To raise awareness among CHRC staff of the experience of the survivors and the enduring legacy of trauma, Mr. Langtry invited two of the TRC's three Commissioners, Justice Murray Sinclair and Chief Wilton Littlechild, to deliver presentations at CHRC national offices in Ottawa. The CHRC has determined that advancing the cause of reconciliation will henceforth be among the organization's priorities.

Mr. Langtry made three pledges to advance the process of reconciliation on behalf of future generations of children: one as CHRC Acting Chief Commissioner, one as President of CASHRA, and one as a father, grandfather and human being.

Read Mr. Langtry's speech at the TRC national event.

In 2014, TRC Commissioners Murray Sinclair (top) and Wilton Littlechild (bottom) spoke to CHRC staff about the history of the residential schools and the enduring impact for many Aboriginal people.

Still not an equal playing field for Canadian women: CHRC report

In 2014, the CHRC released the *Report on Equality Rights of Women*. It provides a national portrait of how adult women are faring in Canadian society compared to adult men.

The report is based on data collected by Statistics Canada in a number of surveys conducted between 2005 and 2011. It charts well-being across seven dimensions: economic well-being; education; employment; health; housing; justice and safety; and political and social inclusion.

The report shows that in some areas Canadian women fare as well as or even surpass men. This is especially true in education. Fewer Canadian women drop out of high school, and more Canadian women are enrolled in university or have a Bachelor's degree as their highest level of educational attainment.

However, the report finds that overall, women in Canada still do not enjoy the same quality of life as men:

- Canadian women earn less income in most employment sectors;
- Canadian women are more likely to be unemployed;
- More Canadian women report feeling unsafe in their own neighbourhoods;
- More Canadian women rely on government transfers as their major source of income;
- More Canadian women report being victims of physical violence at the hands of former spouses or partners;
- More Canadian women say they have been victims of hate crimes; and
- More Canadian women report experiencing discrimination in their daily lives, for example, in services, in leisure activities or when looking for a place to live.

The *Report on Equality Rights of Women* provides a baseline for future studies that the CHRC intends to undertake to measure change.

OUTCOMES

Our Work

Canadian human rights commission | My Canada includes everyone.

Vision

An inclusive society where everyone is valued and respected.

Mandate

The Canadian Human Rights Commission (CHRC) protects the core principle of equal opportunity and promotes a vision of an inclusive society free from discrimination by:

- promoting human rights through research and policy development;
- protecting human rights through a fair and effective complaints process;
- representing the public interest to advance human rights for all Canadians; and
- auditing employers under federal jurisdiction for compliance with employment equity.

Responsibilities

The CHRC administers the *Canadian Human Rights Act* and ensures compliance with the *Employment Equity Act*.

The *Canadian Human Rights Act* prohibits discrimination on the grounds of national or ethnic origin, colour, race, religion, age, sex, sexual orientation, marital status, family status, disability, and conviction for which a pardon has been granted or a record suspended.

The *Employment Equity Act* promotes equity in the workplace of the four designated groups: women, Aboriginal peoples, persons with disabilities, and members of visible minorities.

Operating budget

The CHRC's operating budget is $22.1 million (2014–2015 fiscal year).

Commission members

A full-time Chief Commissioner acts as the Chief Executive Officer and leads the CHRC. In 2014, the Minister of Justice appointed two new part-time Commissioners to the CHRC.

The CHRC's two part-time Commissioners, from left to right: Tara Erskine and Judy Mintz.

Statistics

By law, the Canadian Human Rights Commission (CHRC) must look at every discrimination complaint it receives. The CHRC can decide not to deal with the complaint or refer it to an alternative dispute resolution mechanism.

When possible, the CHRC encourages people to try to resolve their disputes informally and at the earliest opportunity.

In the event no agreement is reached, the CHRC may conduct an investigation. When warranted, the CHRC can refer the case to the Canadian Human Rights Tribunal for a hearing.

In 2014, the CHRC:

- received 1,364 complaints;[1]
- accepted 720 complaints;[2]
- referred 432 complaints to another redress process;[3]
- settled 293 complaints;
- dismissed 217 complaints;
- referred 70 complaints to the Canadian Human Rights Tribunal; and
- decided not to deal with 133 complaints.[4]

[1]A received complaint, also known as a potential complaint, is a contact that falls within the mandate of the CHRC, and that may lead to an accepted complaint after analysis and review.

[2]An accepted complaint is a document, in a form acceptable to the CHRC, that is filed by an individual or group of individuals having reasonable grounds for believing that a person or organization is engaging or has engaged in a discriminatory practice.

[3]The number of complaints referred to another redress process includes those that were referred to the Public Service Labour Relations Board or the Public Service Staffing Tribunal before they became accepted complaints.

[4]The CHRC can decide not to deal with complaints that do not meet the criteria listed under subsections 41 (CDE) of the *Canadian Human Rights Act* (e.g. the complaint fell outside of the CHRC's jurisdiction or the complaint was frivolous, vexatious or made in bad faith.)

Figure 1 – Complaints received by province or territory

	2012		2013		2014	
	#	%	#	%	#	%
Ontario	717	46	566	46	652	53
British Columbia and Yukon	225	14	155	13	209	17
Quebec	174	11	145	12	148	12
Alberta, Northwest Territories and Nunavut	166	11	138	11	166	13
Nova Scotia	71	5	53	4	44	4
Manitoba	59	4	63	5	59	5
Saskatchewan	57	4	58	5	28	2
New Brunswick	61	4	42	3	34	3
Newfoundland and Labrador	19	1	10	1	16	1
Prince Edward Island	11	1	6	-	6	-
Outside of Canada	1	-	-	-	2	-
Total	**1,561**	**100**	**1,236**	**100**	**1,364**	**100**

Figure 2 – Complaints received by types of respondents

	2012		2013		2014	
	#	%	#	%	#	%
Private Sector	558	36	493	40	618	50
Federal government*	777	50	603	49	584	47
Reserves, Bands and Councils	138	9	93	8	91	7
Unions	50	3	25	2	44	4
Individuals	38	2	22	2	27	2
Total	**1,561**	**100**	**1,236**	**100**	**1,364**	**100**

*Includes employers in the core public administration, separate federal government organizations or agencies and Crown corporations

Figure 3 – Complaints received by types of allegation cited

	2012		2013		2014	
	#	%	#	%	#	%
Employment-related (sections 7,8,10)	1,658	72	1,221	70	1,346	78
Services-related (sections 5,6)	390	17	321	19	376	22
Harassment – employment (section 14)	176	8	118	7	138	8
Union membership (section 9)	48	2	22	1	41	2
Retaliation (section 14.1)	23	1	22	1	23	1
Harassment – services (section14)	7	-	17	1	12	1
Notices, signs, symbols (section 12)	3	-	7	-	-	-
Hate messages (section 13)	-	-	-	-	-	-
Pay equity (section 11)	-	-	7	-	1	-
Intimidation (section 59)	1	-	-	-	-	-
Total	**2,306**	**100**	**1,735**	**100**	**1,937**	**100**

*Total number of allegations cited exceeds the total number of received complaints because some complaints dealt with more than one allegation.

Figure 4 – Complaints accepted by province or territory

	2012		2013		2014	
	#	%	#	%	#	%
Ontario	337	44	312	47	342	52
British Columbia and Yukon	121	16	104	16	122	18
Quebec	110	15	70	11	87	13
Alberta, Northwest Territories and Nunavut	65	9	73	11	81	12
Nova Scotia	39	5	18	3	18	3
Manitoba	33	4	25	4	29	4
Saskatchewan	23	3	30	5	13	2
New Brunswick	13	2	22	3	16	2
Newfoundland and Labrador	9	1	5	1	10	2
Prince Edward Island	8	1	2	-	1	-
Outside of Canada	2	-	-	-	1	-
Total	**760**	**100**	**661**	**100**	**720**	**100**

Figure 5 – Complaints accepted by types of respondents

	2012		2013		2014	
	#	%	#	%	#	%
Private Sector	366	48	342	52	406	56
Federal government*	254	33	239	36	217	30
Reserves, Bands and Councils	61	8	50	8	53	7
Unions	54	7	20	3	35	5
Individuals	25	3	10	2	9	1
Total	**760**	**100**	**661**	**100**	**720**	**100**

*Includes employers in the core public administration, separate federal government organizations or agencies and Crown corporations.

Figure 6 – Complaints accepted by types of allegation cited

	2012		2013		2014	
	#	%	#	%	#	%
Employment-related (sections 7,8,10)	926	69	741	68	812	75
Services-related (sections 5,6)	207	15	214	20	210	19
Harassment – employment (section 14)	124	9	71	7	109	10
Union membership (section 9)	52	4	18	2	34	3
Retaliation (section 14.1)	28	2	14	1	25	2
Harassment – services (section14)	6	-	11	1	4	-
Notices, signs, symbols (section 12)	2	-	6	1	-	-
Hate messages (section 13)	1	-	-	-	-	-
Pay equity (section 11)	-	-	8	1	-	-
Intimidation (section 59)	-	-	-	-	-	-
Total	**1,346**	**100**	**1,083**	**100**	**1,194**	**100**

*Total number of allegations cited exceeds the total number of accepted complaints because some complaints dealt with more than one allegation.

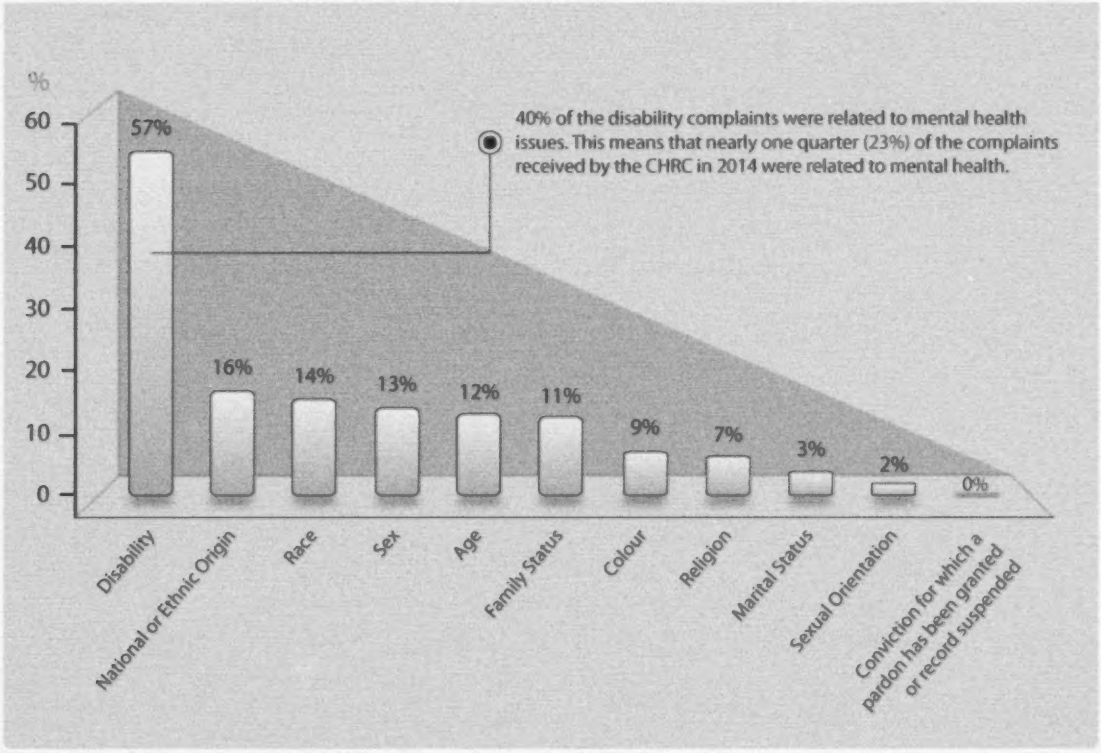
Figure 7 – Final decisions by type

	2012	2013	2014
Section 40/41 Analysis*	433	344	283
Dismissed	190	196	217
Settled**	209	234	293
Referred to Tribunal	113	72	70
Total	**945**	**846**	**863**

* Under section 40/41 of the Act, the CHRC may decide not to deal with a complaint because the complainant ought to pursue another redress mechanism, the incident occurred too long ago, or because the complaint is out of jurisdiction, or considered trivial, frivolous or vexatious.

**Total number of settlements includes all settlements reached between parties, with or without help from the Commission.

Figure 8 – Proportion of complaints received in 2014 by ground of discrimination



NOTE: In this graph, the total exceeds 100% because some complaints cite more than one ground.

Employment Equity audits

The CHRC works with federally regulated employers to ensure compliance with the *Employment Equity Act* (EEA). This contributes to the elimination of employment barriers in various workplaces for women, Aboriginal peoples, persons with disabilities and visible minorities.

In 2014, the CHRC conducted compliance reviews with a focus on ensuring progress towards equality in the workplace:

- The CHRC produced audit reports for 25 federally regulated employers. These reports acknowledged the actions these employers have taken to fulfill their employment equity obligations.
- The CHRC issued 51 status reports for employers that achieved good employment equity results in their industry sectors. The status reports also flag outstanding challenges facing these employers.
- The CHRC negotiated agreements with 29 employers that were not in compliance with the EEA. Each agreement outlined actions that the employer would take to improve their employment equity performance.

To help make CHRC employment equity processes more predictable and transparent for Canadian employers, the CHRC implemented the following in 2014:

- Employers are informed in advance of an employment equity assessment.
- New service standards for the CHRC's compliance audit program and performance reporting on those standards.
- A shorter assessment questionnaire for employers undergoing a follow-up audit.

Sharing resources across the public service

Smaller agencies in Canada's public service often depend on shared services as a way to meet their administrative demands with limited resources. Throughout 2014, the CHRC continued to be recognized as a leader in providing shared services to a number of small departments and agencies in the federal government in areas such as human resources, finance, technology, information management, and security.

The CHRC also continued serving as co-chair of the Small Agencies Administrators' Network, which advocates on behalf of small departments and agencies. The network provides a single point of contact between them and the central agencies. The network also helps address the concerns of smaller departments and agencies by advocating for solutions that are appropriate for them given their limited resources.

This year, in support of government-wide transformation initiatives wherein efficiencies and cost savings are sought for the back office, the CHRC also joined a steering committee for financial management transformation. The CHRC is a managing partner in the migration to the new human resources system.

Legal update

This year, two landmark decisions by the Federal Court of Appeal confirmed that parental childcare obligations fall within the scope and meaning of the ground "family status" in the *Canadian Human Rights Act*. The rulings reaffirmed that employers have an obligation to accommodate employees when they can demonstrate that they have a need to care for a family member. These decisions help clarify an emerging issue in human rights law that has the potential to affect millions of Canadians who provide care for children, spouses, parents or close friends.

Fiona Johnstone with her children. Photo: Blair Gable.

The first case, ***Johnstone v. Canada (Attorney General)***, dates back to 2004 when Fiona Johnstone filed a discrimination complaint under the ground of family status. Her employer, the Canada Border Services Agency (CBSA), had refused her request for a unique work schedule in order to balance her work and parental caregiving responsibilities.

The second case, ***Seeley v. Canadian National Railway Company,*** began in 2005 with a complaint from Denise Seeley. Ms. Seeley was an employee at Canadian National Railway (CN) and was asked to report to work 1,000 kilometres away from her home. She asked to be excused from the assignment because she was unable to find childcare. She was subsequently fired when she did not report to work.

Brooke Richardson, with her 6-month-old baby, protesting outside of the Ontario Legislature for the rights of working parents. Photo: Colin McConnell, Getstock.com

In 2010, the Canadian Human Rights Tribunal ruled that both Ms. Johnstone and Ms. Seeley had been discriminated against by their employers on the ground of family status.

In 2013, the Federal Court upheld those Tribunal rulings by dismissing both employers' applications for judicial review. In 2014, the Federal Court of Appeal dismissed appeals by the CBSA and CN.

> In 2014, the CHRC produced a guide for employers and employees outlining responsibilities and obligations to accommodate caregivers to ensure they are able to continue to participate in the workforce. *A Guide to Balancing Work and Caregiving Obligations* is available on the CHRC's website.

ENGAGEMENT

Advice to Parliament

Reporting on the impact of historic changes to the *Canadian Human Rights Act*

In 2008, Parliament gave full human rights protection to people governed by the *Indian Act* by amending the *Canadian Human Rights Act* (CHRA).

The Canadian Human Rights Commission (CHRC) submitted a Special Report to Parliament in 2014 on the impacts of the change to the law.

The report highlights specific examples of how Aboriginal people have used the law to resolve issues of discrimination within their communities. It also discusses ongoing complaints that have the potential to clarify the law or set important precedents. Issues discussed in the report include education funding, sexual harassment, accommodation of disabilities, rules around leasing land, adoption, and qualifications for "status" under the *Indian Act*.

The report also outlined several barriers preventing some Aboriginal people from filing complaints.

> "The treatment of Aboriginal people remains one of Canada's most pressing human rights issues. The *Canadian Human Rights Act* is an important part of the solution, but it is going to require a larger, societal change and a concerted effort at all levels of government to begin to address the human rights barriers facing Aboriginal people today."
>
> *— David Langtry, Acting Chief Commissioner of the Canadian Human Rights Commission*

The importance of prohibiting genetic discrimination in Canada

In December 2014, Acting Chief Commissioner David Langtry was invited to give evidence to the Standing Senate Committee on Human Rights. The Committee was studying a private members bill, Bill S-201, *An Act to prohibit and prevent genetic discrimination.*

If passed, Bill S-201 would add Canada's name to the list of G7 countries that have legal measures in place to protect people's genetic information from being used against them.

In his address to the Senate Committee, Mr. Langtry acknowledged the tremendous promise that genetic research holds for healthcare in Canada and around the world. But he cautioned that this area of human rights is not yet well-defined in Canadian law.

David Langtry before the Standing Senate Committee on Human Rights, December 10, 2014. Photo: Senate of Canada, 2014.

Mr. Langtry said that adding "genetic characteristics" to the list of prohibited grounds of discrimination in the *Canadian Human Rights Act* would:

- protect Canadians from the risk that their genetic information could be used against them;
- enable people in Canada to bring complaints of genetic discrimination to the CHRC without having to link them to other grounds — as is currently the case; and
- make it clear to people in Canada that everyone has the right to be treated equally no matter who they are or what their genetic makeup says about them.

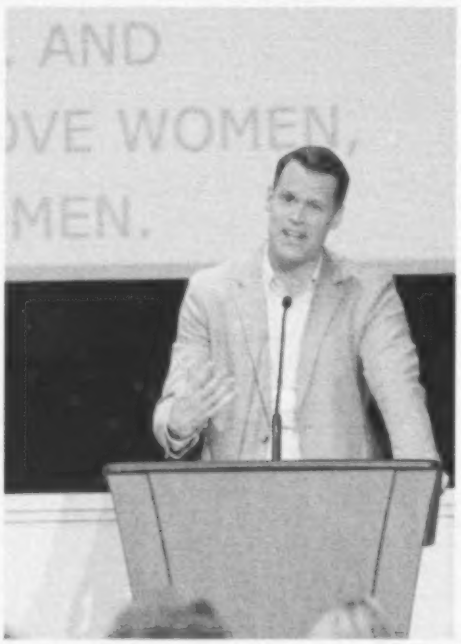
> "As the pace of research accelerates, genetic testing will tell us ever more about who we are. It may one day measure other propensities, such as personality traits. What if an employer were to require certain genetic profiles as hiring criteria? Would that discriminate against people who don't conform, but may have the required education and experience? Is this the kind of society we want in Canada?"
>
> - *David Langtry, Acting Chief Commissioner, speaking on Bill S-201*—An Act to prohibit and prevent genetic discrimination

Outreach

CASHRA 2014 – Accommodation *does* work!

The CHRC hosted the Canadian Association of Statutory Human Rights Agencies (CASHRA) annual conference in Ottawa, in June 2014.

The theme of the conference — "Accommodation Works: Toward a More Inclusive Society" — was strongly reflected in the logistical set-up and support services provided to ensure inclusivity. Physical access, live closed-captioning, simultaneous translation, and Sign language services helped create an inclusive experience for participants.



Olympic gold medalist and human rights champion, Mark Tewksbury delivering the conference's keynote address.

The conference was attended by over 200 employers, academics, litigators and human rights professionals. Speakers, panelists and participants discussed emerging human rights issues and exchanged ideas and best practices in applying human rights law.

Canadian athlete and human rights champion, Mark Tewksbury delivered an inspiring keynote address on his experience of coming out as a gay athlete. He described how the courage it took to survive years of harassment and bullying helped inspire him to win Olympic gold.

Sign languages services, wheelchair access and closed-captioning of speeches helped ensure that everyone at the conference was included and able to take part. Guest speaker Randy Dickinson (far right), Chairperson of the New Brunswick Human Rights Commission, remarked that the conference was "the most accommodating conference" he had ever seen.

Michèle Audette, President of the Native Women's Association of Canada, spoke emotionally and powerfully about the sexual abuse and violence Aboriginal women are subjected to in their own communities. William F. Pentney, Q.C., Deputy Minister of Justice, spoke about the future of human rights in Canada and why equality matters.

The 2014 CASHRA Conference graciously acknowledges partnership and support from the Mental Health Commission of Canada and the Canadian Commission for UNESCO.

President of the Native Women's Association of Canada, Michèle Audette, addressing the conference.

During the CASHRA conference, the CHRC released two new guides on accommodation. Both guides were developed following extensive consultation with employers and other stakeholder groups.

Accommodation Works!
This guide provides employers, employees, unions, health care providers, and insurers with a common language and standardized guidelines to accommodate health issues in the workplace.

A Guide to Balancing Work and Caregiving Obligations
This guide takes managers through the process of accommodating an employee's need to care for a family member by providing information on how to discuss the issue, how to develop solutions, and how to ensure that the solutions are effective.

Using technology to reach more people

The CHRC offered a new series of webinars in 2014 with the objective of helping Canadian professionals gain more insight into human rights issues in the workplace. Topics included how to manage an employee's return to work, how to create an inclusive workplace, understanding the duty to accommodate, workplace harassment, and human rights in a First Nations context. The webinars are provided free of charge, and are available on demand in French and English.

Over 2,700 people from 350 federally regulated organizations across Canada have received human rights information through the webinars so far. They remain available on the CHRC's website.

Many of the participants had not previously been able to receive training from the CHRC, whether due to resource constraints or the remoteness of their locations. The webinars help overcome the issue of budgetary and travel restrictions affecting many employers. They are one way the CHRC is using technology to extend its outreach to more workplaces across Canada.

The CHRC is planning to continue to build on the success of the webinars. In 2015, webinars will likely explore topics such as systemic discrimination, gender identity, and family status and caregiving.

Canada Post, community mailboxes and accommodation

In late 2013, Canada Post announced that it would phase out all door-to-door mail delivery and introduce community mailboxes. This change affects the one third of Canadian households that still have mail delivered to their door.

In response to the announcement, the CHRC issued a statement expressing concern that eliminating home delivery could single out and negatively impact people who would have difficulty making their way to community mailboxes. The CHRC's statement also encouraged Canada Post to ensure that elderly people and people with disabilities were accommodated so that they would continue to have full access to mail services, as required under the *Canadian Human Rights Act*.

Equipping mail compartments with sliding trays is just one solution that Canada Post is prepared to offer people with disabilities.
Photo: Jean Levac, *Ottawa Citizen*.

In January 2014, Canada Post announced that it "...will be sensitive to the needs of seniors and disabled Canadians" when it replaces home delivery with community mailboxes.

In February 2014, Canada Post met with the CHRC to explain how it was addressing the CHRC's concerns. Canada Post told the CHRC that it was consulting a number of organizations that represent seniors and Canadians with disabilities to better understand how this change could affect them. Canada Post met with the CHRC on two additional occasions, in April and again in July, to keep the CHRC informed of its work on accommodation. A number of solutions were identified to accommodate people likely to be adversely affected when their mail delivery is changed.

In August 2014, Canada Post launched its accommodation process. Those who request accommodation are sent an information package and questionnaire. This approach helps Canada Post better understand a customer's concerns and limitations. Once an individual has submitted a request for accommodation, a member of Canada Post's Delivery Accommodation Group contacts them to discuss appropriate solutions.

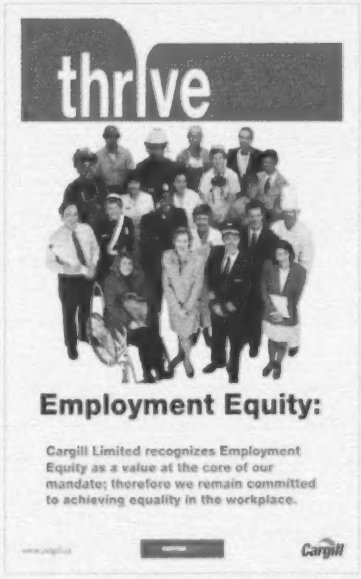
Canada Post will tailor accessibility solutions to individual circumstances on a case-by-case basis. Some of the possible solutions include:

- Providing a customer with a higher or lower mail compartment, as necessary;
- Providing a sliding tray in the mail compartment to make it easier to retrieve mail (intended to reduce bending or reaching);
- Providing a key-turning aid for individuals with dexterity issues;
- Redirecting the mail to a post office box, a family member, friend or other trusted individual the customer chooses; and
- Collecting the customer's mail from their assigned community mailbox compartment one day per week and delivering it to the customer's door.

Steady progress on employment equity at Cargill Limited

Cargill Limited is successfully building a workplace culture that is welcoming to all. The company, employing more than 8,000 Canadians at a total of more than 100 locations across the country, is using an employment equity strategy that emphasizes inclusion rather than diversity. With support from the company's top executives, Cargill's strategy includes training and education programs, as well as recognition awards and partnerships with local community groups.

A key indicator of Cargill's success is the growing number of employees who self-identify as belonging to one of the four groups designated by the *Employment Equity Act*. This trend suggests that the stigma and perceived career limitations once associated with belonging to an under-represented group are rapidly disappearing.


thrive
Employment Equity:
Cargill Limited recognizes Employment Equity as a value at the core of our mandate; therefore we remain committed to achieving equality in the workplace.
Cargill

Cargill developed a series of promotional posters as part of its ongoing effort to create a more inclusive workplace. Image: Courtesy of Cargill Limited, available in English only.

Ultimately, results speak for themselves. Audited by the CHRC's employment equity group in 2014, Cargill shows an increase in the representation of the four groups. Compared with the results of Cargill's previous audit, the most improvement is in the company's representation of persons with disabilities. The report also shows the company is above industry averages for representation of women and members of visible minorities.

Cargill's employment equity performance convinced Canada's Top 100 Employers (2014) to name the company one of the country's Best Diversity Employers.

Activities and initiatives at Cargill:

- Along with a quarterly employment equity newsletter and a monthly newsletter on inclusion and diversity, Cargill's internal communications efforts include a global diversity and inclusion website with videos and best practices.
- A website known as "Globe Smart" helps local managers compare one culture or ethnicity to another.
- A unique reverse-mentoring program called "Mentor Up" helps senior leaders increase their understanding of various dimensions of diversity, such as gender and ethnicity.
- An inclusion and diversity calendar lists significant cultural, religious and national holidays from around the world, and identifies a relevant monthly theme.
- During "abilities scavenger hunts" staged at Cargill's head office in Winnipeg, participants try to complete day-to-day activities while wearing a blindfold or sound-impairing ear muffs, or while being confined to a wheelchair.

International Day of Persons with Disabilities

On December 3, 2014, International Day of Persons with Disabilities, a number of federal departments combined efforts to create national and regional events for federal public servants in order to highlight the successes and contributions of colleagues with disabilities.

The events showcased ways that workplaces can be more accessible and help reinforce the Government of Canada's standing as an employer of choice for people with disabilities.

CHRC employees, Alexander Waddell and Christine Short offering information to people who attended the International Day of Persons with Disabilities event in Ottawa.

Highlights included "Ability Fairs" with information kiosks hosted by professionals from many organizations, discussions with a variety of speakers, and a national panel that was broadcast across the country and abroad.

The CHRC hosted kiosks in Edmonton, Montreal and Ottawa and promoted a number of initiatives including webinars and the *Accommodation Works!* guide.

In the News

Reconciliation with Aboriginal People is important for all

As published in the Winnipeg Free Press, *March 26, 2014.*

It should not surprise Manitobans to learn, as the province's auditor general and Statistics Canada each reported last week, our prisons are full to the brim and the overwhelming majority of prisoners (70 per cent) are aboriginal. Ask any Winnipegger why this is so, and you're likely to hear more frustration and finger-pointing than empathy.

But, on the contrary, Canadians should be looking more deeply into our own history for explanations. It is incumbent on us to understand our collective responsibility, because so much damage has been done in our names, and on our behalf. Over successive generations, our governments impoverished, marginalized, debilitated and ripped apart the rich tapestry of indigenous culture and identity that once covered this land.

It started right at the birth of this nation with policies of forced assimilation designed to drive aboriginal people off the land and settle the West. Indian residential schools, enshrined in federal government policy in 1876, were key to this effort.

For more than a century, aboriginal children were forcibly taken from their homes and crowded into spartan boarding schools plagued by hunger, abuse, disease and death. They were banned from using their languages and cultures. They were taught traditional customs were inferior. They were taught they were inferior.

The fallout from all this lives on in remote First Nations communities struggling to emerge from decades of neglect. It lives on in downtown cores of major Canadian cities. It lives on at north Main Street.

I grew up in Winnipeg in the 1950s. My upbringing was unusual: racist stereotypes, so common then, had no place in our home. My father saw everyone as equal. He treated everyone with respect.

Aboriginal people had a positive influence on me. My father would take me to Shoal Lake every weekend, where we camped in the heart of a First Nations community and fished from their shores. As a young man, I took a job that involved living and working in First Nations communities throughout Manitoba.

But while I made friends and learned from the wisdom of elders, I learned nothing about residential schools. Only years later, when I became assistant deputy minister for child and family services in Manitoba, did the deep, enduring impacts of the schools on survivors and their families hit me for the first time.

What hit me was the inescapable evidence of a spiral of decline that begins with the destruction of families. It is hard to learn to be a parent when all you recall from your childhood is the end of the lash or the shame of being sexually assaulted. Here's another distressing statistic: fully half of all children in foster care in Canada today are aboriginal.

University of Ottawa and Carleton University researchers confirm in a recent study the trauma of residential schools is passed from one generation to the next. When multiple generations attended them, the negative effects are cumulative. Aboriginal people in Canada lag behind the rest of us on indicators of well-being such as education, employment and health.

This is among the reasons why this federal government's 2008 apology to aboriginal people is so significant. But that apology, so overdue, was just a first step. Now we need to achieve reconciliation.

Later this week, I will bear witness to this tragic history when survivors of the schools gather in Edmonton for the Truth and Reconciliation Commission's final national event. The TRC was set up under the terms of the largest class-action settlement in Canadian history, brought on behalf of some 80,000 survivors. By giving them a chance to tell their stories, and by investigating archives long kept hidden, the TRC has made strides toward uncovering the truth.

Reconciliation, sadly, is more elusive.

Yet it is important to the future of this country. Aboriginal peoples need to be at the table as equal partners, with mutual respect and trust, if Canada is to fully realize its potential.

As Jim Prentice said last month in his role as special adviser to Enbridge: "There will be no pipelines to the West Coast, there will be no exports of Canada's oil from the West Coast... unless we strike meaningful economic partnerships with First Nations."

In my role as Honourary Witness this week, I will make a personal commitment to build awareness of our shared past. I intend to be part of the process of healing. Only when we assume responsibility for the past can we find the path to reconciliation between our peoples.